verizon

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August 29, 2002

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th H Street, SW, Portals
Washington, DC 20554

Re: *Application by Verizon for Authorization To Provide In-Region, InterLATA Services in State of Virginia,* WC Docket No. 02-214

Dear Ms. Dortch:

Per the request of the Wireline Competition Bureau staff, Verizon is providing the attached Reply Comments filed in the matter of Verizon Telephone Companies Tariff FCC Nos. 1 and 11, Transmittal No. 232 on Aug. 22, 2002. Please let me know if you have any questions. The twenty-page limit does not apply as set forth in DA 02-1857.

Sincerely,

Attachment

cc: U. Onyeije
B. Olson
G. Remondino

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Verizon Telephone Companies	)	Transmittal No. 232
Tariff FCC Nos. 1 and 11	)	
	)	

REPLY COMMENTS OF VERIZON

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August 22, 2002

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REPLY COMMENTS OF VERIZON[1]

I. Introduction and Summary

Despite the fact that Verizon's filing of the tariff introducing Packet at Remote Terminal Service ("PARTS") is purely voluntary, and that it would give collocators an additional option that they do not have today, Covad and WorldCom argue that the Commission should prevent the service from being offered by rejecting or suspending the tariff. PARTS would give collocated carriers the ability to use the same facilities that Verizon will use to provide digital subscriber line ("DSL") service through remote terminals. Neither the Commission's rules regarding unbundled network elements nor its rules concerning interstate access services require Verizon to offer this service. Competitive local exchange carriers ("CLECs") already have the ability to interconnect DSL equipment at remote terminals, pursuant to the Commission's collocation rules. ***See*** 47 C.F.R. § 51.323(k)(3). CLECs already may purchase Verizon's digital subscriber line ("DSL") service and resell it to their customers. Verizon decided to offer PARTS as another

[1] The Verizon telephone companies ("Verizon") are the affiliated local telephone companies of Verizon Communications Inc. These companies are listed in Attachment A.

alternative for offering DSL service over Verizon's network. The petitioners complain that allowing the new service to go into effect will prejudge the unbundling issues in the *Triennial Review* proceeding, but clearly the offering of a new interstate access service does not affect a carrier's obligation to comply with the Commission's decisions implementing the unbundling provisions of section 251 of the Act.

Nowhere do the petitioners explain how Verizon's offer of a *new* service can harm anyone – if these carriers do not want the service, they do not have to purchase it. However, if the Commission rejects or suspends the tariffs, none of their competitors will be able to purchase the service either, and that may be the whole point of their opposition. The Commission should reject these baseless complaints and allow the PARTS tariff to go into effect as scheduled, without suspension or investigation, so that any CLEC who wants to take advantage of this option can do so.

II. The PARTS Tariff Will Not Prejudge The Issues In Any Pending Rulemaking Proceedings.

Covad and WorldCom argue that Verizon filed this tariff to perform an "end run" around the Commission's upcoming decisions in the *Triennial Review NPRM*,[2] the *Broadband NPRM*,[3] and the *Dominance/Non-Dominance NPRM Proceeding*.[4] ***See*** Covad, 1-2; WorldCom, 1-2. In fact, these petitioners are the ones who are asking the Commission to prejudge the rulemakings

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[2] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 16 FCC Rcd 22781 (2001).

[3] *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities*, 17 FCC Rcd 3019 (2002).

[4] *Review of Regulatory Requirements for Incumbent LEC Broadband Services*, 16 FCC Rcd 22745 (2001).

by arguing that Verizon should be required to provide PARTS *now* as an unbundled network element ("UNE"). When the Commission reaches its decisions in those proceedings, Verizon will be required to comply, regardless of what services are offered in its tariffs at that time. If the Commission allows this tariff to go into effect, as it should, that would not prejudge in any way the types UNEs that it may require the incumbent local exchange carriers to offer in the *Triennial Review* proceeding. The fact that an incumbent local exchange carrier offers a service in an interstate access tariff by itself does not prevent the Commission from finding later that some or all of the facilities used to provide that service may be required to be offered on an unbundled basis as UNEs, provided that the Commission satisfies the statutory criteria in section 251. Similarly, the filing of a new advanced service in the federal tariff has no effect on the issue of whether the Commission will decide to deregulate that service in the *Broadband* or *Non-Dominance* proceedings. The addition or subtraction of particular advanced services does not affect the Commission's decision about how to classify such services for regulatory purposes.

The petitioners claim that Verizon already has an obligation to offer PARTS facilities as UNEs. ***See*** Covad, 2-3; WorldCom, 2. This clearly is not the case. But even aside from that point, the reality is that providing PARTS as an additional option has no effect on Verizon's unbundling obligations under the current rules. Whatever the rules require to be unbundled still has to be unbundled whether or not PARTS is offered.

Under the Commission's current rules, Verizon has no obligation to offer PARTS, or indeed any type of DSL service, as a UNE. The Commission's rules require the incumbent local exchange carriers to offer UNEs to competitive carriers, including loops that use fiber in the feeder, but they specifically do not require access to DSL equipment or other types of packet switching equipment except under specific, limited circumstances. The incumbent local exchange carriers must offer unbundled access to packet switching where they have placed digital subscriber line access multiplexers ("DSLAMs") at remote terminals only if they do not allow a requesting carrier to collocate its DSLAM at the remote terminal on the same terms and conditions. ***See*** *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 3696, ¶ 313 (1999) ("*UNE Remand Order*"). Accordingly, as long as those specific conditions are not present, an incumbent local exchange carrier has no obligation to unbundle DSL equipment. Since Verizon permits carriers to collocate DSLAMs at its remote terminals, it has no obligation to offer packet switching as a UNE at those terminals by unbundling its DSL equipment regardless of whether it voluntarily offers PARTS service.

Likewise, the introduction of PARTS does not affect Verizon's obligation to unbundle loop facilities. The Commission's rules define the UNE local loop to include "all features, functions, and capabilities of such transmission facility." 47 C.F.R. § 51.319(a)(1). However, the rules specifically state that "'[t]hose features, functions, and capabilities include, but are not limited to, dark fiber, attached electronics (*except those electronics used for the provision of advanced services, such as Digital Subscriber Line Access Multiplexers*), and line conditioning."[5] PARTS is an advanced service that utilizes digital subscriber line access multiplexing ("DSLAM") capabilities at the remote terminal. ***See*** Transmittal No. 232, Description and Justification, Section 1. Therefore, PARTS need not be offered as a UNE.

In reality, it is Covad who is attempting to prejudge the rulemaking proceeding by arguing that Verizon is required to provide PARTS as a UNE based on the next-generation

[5] Id. (emphasis added).

digital loop carrier ("NGDLC") equipment that is currently included in the definition of the loop. This directly contradicts the *UNE Remand Order*. ***See*** *UNE Remand Order*, ¶ 175. If a collocator wants a voice grade unbundled loop that is served by NGDLC, Verizon will certainly provide it. However, that loop will not be capable of supporting DSL service. In that case, if an alternative loop not served by NGDLC and capable of supporting DSL is available, Verizon will make that loop available for use. Furthermore, if a competitive local exchange carrier wants to offer DSL service over a loop that has fiber in the feeder, the current UNE rules allow it to purchase the unbundled copper subloop and to access that subloop with its own DSLAM. ***See*** *UNE Remand Order*, ¶ 218. PARTS gives collocators an additional option of using Verizon's service and interconnecting at the collocation arrangement in the central office.[6]

The offering of PARTS service will neither prejudge the issues in the pending rulemaking proceedings nor detract in any way from Verizon's compliance with the current UNE rules. As the Commission has stated, "[t]he Commission adopted price cap regulation in part to encourage price cap LECs to innovate, and to develop new services. . . . By definition, a new service expands the range of service options available to consumers. Thus, the introduction of a new

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[6] WorldCom argues that Verizon has made it "practically impossible" for a competitor to deploy DSLAMs at remote terminals, citing its own comments in the *Triennial Review* proceeding. ***See*** WorldCom, 2. However, its comments in that proceeding reveal that it is economics, not Verizon's conduct, that WorldCom points to as the roadblock. ***See*** Reply Comments of WorldCom, CC Docket No. 01-338, at p. 115 (filed July 17, 2002). WorldCom claims that it is prohibitively expensive for CLECs to collocate DSLAMs at remote terminals. Clearly, deployment of DSLAMs at remote terminals requires a substantial investment. The fact that Verizon is willing to make such an investment and share it with its competitors should not be held against it. In addition, the Commission has found in several section 271 proceedings that Verizon has met its unbundling obligations under the UNE rules. ***See, e.g.,*** *Verizon New Jersey 271 Order*, WC Docket No. 02-67, FCC 02-189, ¶ 189 (2002); *Verizon Maine 271 Order*, CC Docket No. 02-61, FCC 02-187, ¶ 44 (2002); *Verizon Vermont 271 Order*, 17 FCC Rcd 7625, ¶ 48 (2002).

service does not by itself compel any access customer to reconfigure its access services and so cannot adversely affect any access customer." *Access Charge Reform*, 14 FCC Rcd 14221, ¶ 37 (1999) (footnotes omitted). Regardless of whether the Commission permits the PARTS tariff to go into effect, Verizon has the right to deploy DSLAM capabilities in remote terminals for its own DSL services. If the Commission suspends or rejects the tariff, it will only harm potential customers that may find the service attractive.

III. Verizon Has Not Unreasonably Restricted The Terms And Conditions Of PARTS.

The petitioners argue that Verizon has unreasonably restricted the terms and conditions of PARTS. ***See*** Covad, 4-5; WorldCom, 4-6, 9-10. Like their arguments about the Triennial Review proceedings, these arguments are based on misconceptions about the requirements of the Commission's UNE rules and the fundamental nature of PARTS.

Covad argues (at 4) that Verizon unreasonably restricts access to PARTS by allowing only two types of connections to collocation arrangements at the end user's serving wire center, permanent virtual circuits on either DS3 or OC3 connections. According to Covad, this impinges on its ability to access UNEs in any technically feasible manner. However, as Verizon demonstrated, PARTS is a service that is available to carriers in addition to any UNEs that must be provided under the current rules – PARTS itself is not a UNE. Moreover, Covad is free to access the subloop outside of the serving wire center by inteconnecting at the remote terminal.

The petitioners argue that Verizon unreasonably restricts the bandwidth on PARTS to only four speed configurations, which allegedly restricts the ability of competitors to offer different service offerings to compete with Verizon. ***See*** Covad, 4-5; WorldCom, 9-10. These bandwidths are driven by the type of equipment that Verizon is deploying for its own DSL services as well as for PARTS. Verizon has no obligation to deploy whatever type of equipment a competitor may want for its own services so that the competitor could gain a competitive advantage over Verizon and other carriers. Apparently, these carriers are quite willing to offer "innovative services at competitive prices" only if Verizon will fund and build the underlying facilities for them. Even the UNE rules do not require Verizon to build new facilities. If competitors want to differentiate their services, they need only deploy the necessary equipment at the central office, the remote, or their own premises.

WorldCom argues (at 5-6) that it is unreasonable for Verizon to offer PARTS only to carriers that are collocated in serving wire centers. According to WorldCom, there is no reason why Verizon cannot offer connections to PARTS through transport facilities to points outside the serving wire center. But Verizon already does that through its existing DSL services. ***See, e.g.,*** Verizon Telephone Companies FCC Tariff No. 20, Section 5, Part 3. Verizon's DSL service is available to provide service to any end users served by DSL-capable facilities, which can include facilities that use DSLAM capabilities at remote terminals. Whether the DSLAM is in the central office or in the remote terminal is irrelevant to a customer that purchase DSL service – the service is the same in either case. The PARTS tariff offers an additional option to allow collocators to avoid purchasing the transport facilities from Verizon and to obtain access to the service at the serving wire center. If there were no collocation, there would be no need for PARTS. Therefore, by definition, it cannot be an unreasonable restriction to provide PARTS only to collocation arrangements.

IV. Verizon Provided Timely Notice Of Network Interfaces For PARTS.

Covad argues (at 6-7) that Verizon failed to provide notice of network changes associated with PARTS as required by section 251(c)(5) of the Act and section 51.325 *et seq*. This is simply wrong. Verizon posted the network disclosure statement for PARTS on its web site in February of 2002. ***See*** http://www.bellatlantic.com/disclose/2002_february3.htm. At that time, the service was described as "DSL access service at the remote terminal." Verizon also provided the required certification to the Commission, which published it in a public notice. ***See*** *Common Carrier Bureau Network Change Notification filed by Verizon,* Public Notice, Report No. NCD-612 (rel. Feb. 28, 2002).

Covad is also incorrect in arguing (at 6) that Verizon did not provide sufficient notice or information about the service to permit customers to make ready their own ordering and provisioning processes. In fact, Verizon is under no obligation to provide such notice above and beyond the network disclosure requirements in the Commission's rules, with which Verizon fully complied. Nonetheless, Verizon provided additional information to the industry, including specifically to Covad, to assist customers in preparing for the ordering and provisioning of PARTS. Verizon first began discussing PARTS in industry workshops in February and March of 2001. A potential PARTS offering was discussed at length in regulatory proceedings in Massachusetts and California and, in less detail, in regulatory proceedings in Pennsylvania and New York. Covad has been represented in all of these state proceedings.[7] On February 20, 2002, Verizon sent a letter to the carriers, including Covad, that had participated in the New

[7] For example, Covad served extensive interrogatories and document requests on Verizon regarding PARTS in the California line sharing proceeding starting in October 2001, and it took depositions of Verizon's witnesses on these documents in March and June of 2002. ***See*** California PUC, Line Sharing Phase of OANAD (R.93-04-003/I. 93-04-002).

York DSL collaborative that Verizon intended to deploy its first office application of DSL at the remote terminal at the Marshfield, Massachusetts central office. Verizon released draft ordering rules for the PARTS permanent virtual circuit (analogous to an end user line connection) in early April 2002, it discussed these draft rules on an industry conference call in late April, and it released final permanent virtual circuit ordering rules in May. Verizon posted the final rules for ordering the OCD Port (*i.e.*, the PARTS network-to-CLEC collocation arrangement connection) to the web site in July.[8] Verizon sent additional mailings to the carriers on May 21, June 18, and August 14, 2002, providing detailed information regarding further planned deployment of PARTS to over 350 remote terminals subtending 160 central offices throughout the Verizon East serving area. Verizon worked extensively with the carriers to inform them well in advance that it planned to offer PARTS service and to give them the information they needed to prepare their own systems to use it.

V. The PARTS Tariff Is Not Unclear.

WorldCom argues (at 2-3) that the tariff does not make it clear how Verizon intends to provide DSL service, either on wholesale or retail basis, to affiliated or unaffiliated Internet service providers ("ISPs") at locations served by DSL-equipped remote terminals. However, the tariff is quite clear that only carriers that are collocated under the Commission's expanded interconnection rules, under state collocation tariffs, or under interconnection agreements may purchase PARTS. ***See, e.g.,*** Verizon Telephone Companies FCC Tariff No. 1, Section 16.9.1(A). Since unaffiliated ISPs do not have a right to collocate, they are ineligible for this service. The tariff also makes it clear that Verizon's affiliated ISP may not purchase this service.

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[8] ***See*** http://128.11.40.241/east/wholesale/resources/2002_industry_letters/clec/071602.htm.

See id. Like other ISPs, Verizon's affiliated ISP may only purchase DSL service, which is provided to non-collocated customers. ISPs may continue to purchase DSL service regardless of whether that service to a particular end user location is served over DSLAM equipment deployed in remote terminals. The PARTS tariff does not address DSL service because PARTS is an input to that service not unlike other services that Verizon uses to provide DSL service.

WorlCom also argues (at 4) that the phrase "This does not include collocation of an affiliated Information Service Provider" in section 16.9.1(A) of the tariff is also unclear. However, following the sentence describing the types of collocation arrangements to which the service may be provided, the sentence clearly refers to Verizon's affiliated ISP, which does not collocate under those provisions. The Description and Justification accompanying the tariff also explains that this excludes "collocation" of Verizon's affiliated ISP pursuant to the Commission's *Computer III Report and Order*, 104 FCC 2d 958, 1037-38 (1986), which allowed the incumbent local exchange carriers to put their enhanced services equipment in their central offices, provided that they impute to their enhanced services the same tariffed rates for local exchange services and access services that they would apply to customers located outside of the building.

WorldCom also argues (at 3-4) that the terms of the three PARTS service configurations are not clear. First, it argues that it is not clear who would pay the local exchange charge under Configuration 1, where Verizon provides the dial tone service to the end user and provides a data handoff to the customer's collocation arrangement. Obviously, since the tariff states that Verizon would provide dial tone to the end user under this configuration, the end user would pay the appropriate local exchange service rates set forth in Verizon's local tariff. ***See*** Verizon

Telephone Companies FCC Tariff No. 1, Sections 16.9.1(C), 16.9.5(C). The charges would depend on whatever local exchange services were subscribed to by the end user. Second, WorldCom argues that it is not clear what voice grade service the customer may provide under Configuration 2, where the customer provides dial tone to the end user and Verizon provides both a voice grade handoff and a data handoff to the customer's collocation arrangement. Clearly, since this is a voice grade handoff equivalent to a UNE loop, the customer can provide any type of service it chooses that requires a voice grade loop. The tariff also makes it clear that the appropriate UNE loop rates will apply per the state tariff or interconnection agreement. Finally, WorldCom argues that the tariff does not explain or justify the $32 charge for Configuration 3, under which Verizon provides a data handoff to the customer's collocation arrangement. However, this is not a clarity issue – there cannot be any question about what is meant by the charge. In terms of justification, since the end user is not paying local exchange rates and the customer is not paying UNE rates for this configuration, someone must pay for the loop. The workpapers provide the cost justification for this charge, which is based on recovery of the entire costs of the distribution loop. ***See*** Workpapers 1, 4-8.

VI. The Proposed Rates For PARTS Are Reasonable.

The petitioners argue that the proposed rates for PARTS are excessive and are not sufficiently documented. ***See*** Covad, 8-9; WorldCom, 7-8. These arguments have no merit. Verizon provided detailed information about the investments, direct cost factors, overhead factors, and nonrecurring costs. WorldCom complains that there is insufficient backup for these costs, but Verizon already provided (under seal) the unit investments underlying the service, which the commenters could have compared to their own costs for similar equipment.

Instead, the petitioners compared PARTS to clearly dissimilar services to make it appear unreasonable. For instance, Covad compares the price for a PARTS PVC line to the $0.71 per month UNE price for line sharing. A comparison of access rates to UNE rates rates is apples-to-oranges, because the two are developed under different costing standards. In addition, the rate for line sharing is completely irrelevant, as Verizon does not incur the costs of installing the DSLAM capabilities at the remote terminal or the costs of the electronics to provide access over fiber and a DS3 or OC3 port when it provides line sharing over a copper loop. Similarly, Covad's comparison of the nonrecurring charges for a line shared loop to the nonrecurring charges for PARTS does not take into account the substantial costs of installing PARTS compared to the much simpler effort to split the high frequency portion of the line to provide a cross-connect to a collocation arrangement for line sharing.

WorldCom inappropriately compares the nonrecurring charges for PARTS to the nonrecurring charge per line for DSL service. This comparison is not valid, as the DSL nonrecurring costs were not developed to include the substantial additional field installation and provisioning costs involved with PARTS. ***See*** Workpaper 2, columns C&D.

The petitioners argue that the costs simply are too high, and that Verizon did this purposely to create a "price squeeze" for its competitors.[9] Yet, they admit that the costs of installing DSLAMs in remote terminals are "prohibitively expensive" and that they have not found an economic way of doing so. ***See*** Reply Comments of WorldCom, CC Docket No. 01-338, at p. 115 (filed July 17, 2002); Covad, 2. It is expensive for Verizon as well, and Verizon

[9] ***See*** Covad, 8; WorldCom, 7-8. The Petitioners compare the cost for PARTS to Infospeed – a DSL service that includes users who are served through DSL equipment in the central office as well. Petitioners make no attempt to average in this relatively lower cost aspect of the service.

would have no reason to incur the substantial investment risk of providing this service if it did not have a reasonable prospect of recovering its costs. The Telecommunications Act of 1996 requires Verizon to open its network to competitors, not to subsidize them. Moreover, even by the petitioners' estimates, the cost per line is $25 per month for the lowest speed service, which is well below the $39.95 per month individual line rate that Verizon charges for Infospeed DSL service.[10] Finally, a "price squeeze" can occur only if PARTS were an essential input to the competitor's service that they could not obtain elsewhere. ***See, e.g.,*** *INFONXX, Inc., v. New York Telephone Co.,* 13 FCC Rcd 3589, ¶¶ 18-20 (1997); *City of Kirkwood v. Union Electric Co*., 671 F.2d 1173, 1176, n.4 (8th Cir. 1982). PARTS is not an essential service –the competitors can provide their own PARTS functionality by connecting their own DSLAM equipment to the remote terminal and purchasing the subloop as a UNE. In addition, the competitors can obtain access to PARTS-served loops through Verizon's basic DSL service. Therefore, the offering of this service cannot create a price squeeze.

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[10] ***See*** Covad, 8; Verizon Telephone Companies FCC Tariff No. 20, Section 5.1.6. The rate for Infospeed can be as low as $29.95 per month, but that is only with a five-year term and volume commitment at the highest volume level. ***See*** Verizon Telephone Companies FCC Tariff No. 20, Section 5.1.6(C). Such term and volume commitments allow substantial savings in costs and investment risks that justify a smaller margin.

Conclusion

The PARTS tariff offers competitors a new service option that will permit them to offer DSL services to customers served by fiber to remote terminals without prejudging any of the issues in the pending rulemaking proceedings. The Commission should allow the tariff to go into effect as scheduled without suspension or investigation.

Respectfully submitted,

By: ______________________

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Dated: August 22, 2002

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on this 22nd day of August, 2002, copies of the "Reply Comments of Verizon" were sent by facsimile to the parties listed below.

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